OFFICE of the
INSURANCE
COMMISSIONER
WASHINGTON STATE

Surprise billing fact sheet

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Consumers should not be caught in the middle of billing disputes between insurers and providers. This legislation would protect people from getting a surprise medical bill when they receive emergency services at an out-of-network emergency room or surgical or ancillary services from an out-of-network provider at an in-network hospital or ambulatory surgical facility. If approved, the bill would take effect January 1, 2020.

This is not an isolated occurrence. Nationally, 20% of in-network hospital emergency department visits involve an out-of-network physician.[i] For people enrolled in large employer health plans, nearly 1 in 5 inpatient hospital admissions includes a claim for an OON provider. [ii] According to the Washington State All Payers Claims Database (APCD), 4-5% of anesthesiology and radiology services provided for higher volume surgeries done in 2015-16, were out-of-network.

To date, eleven states have enacted legislation prohibiting balance billing in circumstances similar to those included in this legislation. Missouri, New Hampshire, New Jersey and Oregon enacted legislation in 2018.

Consumers taken out of middle

Patients often do not know if they are receiving treatment from an in-network or out-of-network provider, such as an anesthesiologist, radiologist or pathologist, during an emergency, or even during a scheduled surgery at an in-network facility. Patients too often receive care or services from a medical provider who is not included in the network of providers for their health insurance plan. This can result in consumers receiving a bill for an excessive amount that they are responsible for after their insurance plan has paid.

Current state law does not require an out-of-network medical provider to accept the rate the insurer pays as full payment for a service. They can bill consumers for the difference between what the insurer pays and their billed charges.

Bill highlights:

- Bans surprise billing when services are delivered in emergency rooms, or at in-network hospitals or ambulatory surgical facilities where surgical or ancillary care is provided by out-of-network providers.
- Rather than setting a formula for out-of-network provider payments, the legislation directs insurers and out-of-network providers to attempt to agree upon payment of a commercially reasonable amount for out-of-network services. It establishes arbitration for providers and insurers to resolve disputes when they cannot agree.
- Uses information in the Washington State All Payer Claims Database (APCD) to make objective information available to insurers, providers and arbitrators.
- Requires issuers, providers and hospitals to provide health care consumers with information about who is in their health plan's network.

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[i] See Cooper, Z., "Surprise! Out-of-Network Billing for Emergency Care in the United States" (Yale University Institution for Social and Policy Studies, July 2017) https://isps.yale.edu/sites/default/files/publication/2017/07/surpriseoutofnetwrokbilling_isps17-22.pdf

[ii] Claxton, G. et al, An Analysis of Out-of-Network Claims in Large Employer Health Plans (Kaiser Family Fdn. August 13, 2018) https://www.kff.org/health-costs/press-release/analysis-for-patients-with-large-employer-coverage-about-1-in-6-hospital-stays-includes-an-out-of-network-bill/ -

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